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ATTORNEYS AT LAW

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ENTERED
Office of Proceedings

MAR 25 2008

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Public Record

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221904

March 24, 2008

VIA FEDERAL EXPRESS

Ms. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

FEE RECEIVED

MAR 25 2008

**SURFACE
TRANSPORTATION BOARD**

Re: **Finance Docket No. 35124**
R.J. Corman Railroad Company/Central Kentucky Lines, LLC —
Trackage Rights—CSX Transportation, Inc.

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Verified Notice of Exemption of R.J. Corman Railroad Company/Central Kentucky Lines, LLC** pursuant to 49 C.F.R. § 1180.2(d)(7), dated March 24, 2008. A check in the amount of \$1600 representing the appropriate fee for this filing is enclosed.

One extra copy of the Notice and this letter is also enclosed. I would request that you date-stamp those items to show receipt of this filing and return them to me in the provided envelope.

If you have any questions regarding this filing, please feel free to contact me.
Thank you for your assistance on this matter.

FILED

MAR 25 2008

**SURFACE
TRANSPORTATION BOARD**

Respectfully submitted,



Ronald A. Lane
Attorney for R.J. Corman Railroad Company/
Central Kentucky Lines, LLC

cc: Steven Armbrust, Esq.

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35124

221904

R.J. CORMAN RAILROAD COMPANY/CENTRAL KENTUCKY LINES, LLC
-- TRACKAGE RIGHTS --CSX TRANSPORTATION, INC.

VERIFIED NOTICE OF EXEMPTION
OF

R.J. CORMAN RAILROAD COMPANY/CENTRAL KENTUCKY LINES, LLC
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)

FEE RECEIVED

MAR 25 2008

SURFACE
TRANSPORTATION BOARD

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FILED

MAR 25 2008

SURFACE
TRANSPORTATION BOARD

Ronald A. Lane
Michael J. Barron, Jr.
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

ATTORNEYS FOR
R.J. CORMAN RAILROAD COMPANY/
CENTRAL KENTUCKY LINES, LLC

Dated: March 24, 2008

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35124

**R.J. CORMAN RAILROAD COMPANY/CENTRAL KENTUCKY LINES, LLC.
-- TRACKAGE RIGHTS --CSX TRANSPORTATION, INC.**

VERIFIED NOTICE OF EXEMPTION

Pursuant to 49 C.F.R. § 1180.2(d)(7) R.J. Corman Railroad Company/Central Kentucky Lines, LLC ("RJCC"), a Class III carrier, hereby files this Verified Notice of Exemption for exemption of limited overhead trackage rights over two lines of railroad of CSX Transportation, Inc ("CSXT"). The first line extends from the point of the parties' connection at CSXT milepost VB 113.81 near Winchester in Clark County, Kentucky to the industry track at CSXT milepost KC 131.0 near Berea, in Garrard County, Kentucky, a distance of about 35 miles. The second line extends from one point of the parties' connection at CSXT milepost T1.8 in Louisville, KY to another point of connection at CSXT milepost 12.49 near Anchorage, KY, a distance of about 10.75 miles, all in Jefferson County, KY. These trackage rights will permit RJCC to haul carload quantities of sand from the Ohio River at Louisville to a sand distribution point in Berea, Kentucky, more than a hundred miles away and to haul cement from RJCC's Water Street Lead in Louisville to a cement plant in Lexington, Kentucky.

Under 49 CFR §1180.2(d)(7), the acquisition of trackage rights by a rail carrier over lines owned or operated by any other rail carrier is exempt if the rights are based on written agreements and not filed or sought in responsive applications in rail consolidation proceedings. The trackage rights covered by this Notice are based on written amendments to existing written trackage rights agreements and are not sought in responsive applications in rail consolidation

proceedings. The existing agreements and the amendments are attached hereto as Exhibit D. Accordingly, the exemption under Section 1180.2(d)(7) is applicable.

In accordance with the requirements of 49 C.F.R. § 1180.4(g), RJCP submits the following information:

Description of the Proposed Transaction. 49 C.F.R. § 1180.6(a)(1)(i)

In 2003, CSXT granted to RJCC limited overhead trackage rights over CSXT tracks between CSXT milepost VB 113.81 at Winchester, Kentucky and CSXT mile post KC131.0 at Berea Kentucky, a distance of approximately 35 miles. Those trackage rights are limited to moving unit trains of aluminum ingot and empty return for a customer at Berea, and the rights were authorized in *CSX Transportation, Inc.—Trackage Rights Exemption—R.J. Corman Railroad Company/ Memphis Line, STB Fin Docket No 34420* (served Nov. 12, 2003).

In 2005, CSXT granted to RJCC limited overhead trackage rights over CSXT tracks between the end of CSXT's "Water Street Lead" at CSXT milepost T1.8 and CSXT milepost 12.49 at HK Tower, a distance of about 10.75 miles, all in Louisville, Kentucky. Those trackage rights are incidental to RJCC's lease of CSXT's Water Street Lead, and were authorized in *R.J. Corman Railroad Property, LLC—Lease Exemption—Line of CSX Transportation, Inc., STB Fin. Docket No. 34625* (Served March 4, 2005). This trackage connects RJCC's Water Street Lead to its Central Kentucky Lines.

The parties have agreed to relax the restrictions in each of these trackage rights agreements to permit two new types of direct service by RJCC. First the amendments will permit RJCC to add cars of cement at Louisville to the unit trains of empty aluminum ingot cars returning to Berea and to haul those trains to Lexington, where the cement cars will be cut off and the empty aluminum ingot cars will continue to Berea; and vice versa on the westbound move with empty cement cars on the aluminum ingot train between Lexington and Louisville.

The amendments will also permit a second new direct service. RJCC will be able to haul sand in single line service directly to Berea. These moves represent new business not moving in this corridor by rail today.

The full name and address of the applicant herein is as follows:

R.J. Corman Railroad Company/Central Kentucky Lines LLC
P.O. Box 788
Nicholasville, KY 40356

Any questions concerning this Notice should be sent to counsel for RJCC at the following address:

Ronald A. Lane
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

Proposed Time Schedule for Consummation. *49 C.F.R. § 1180.6(a)(1)(ii)*

RJCC intends to consummate the trackage rights amendment 30 days following filing of this notice.

Purpose Sought to be Accomplished. *49 C.F.R. § 1180.6(a)(1)(iii)*

There has arisen a demand for rail transportation of carload quantities of cement from southern Indian to Lexington KY that can be moved efficiently by RJCC in coordination with the backhaul of its aluminum ingot unit train. Similarly, a demand has arisen for rail transportation of sand from the Ohio River at Louisville to Berea that can also be efficiently handled by RJCC.

CSXT has agreed to relax restrictions in the existing trackage rights agreements to permit such movements

States in Which Applicant's Property is Located. *49 C F R § 1180 6(a)(5)*

RJCC owns and leases rail property in, and only in, the State of Kentucky.

Map. *49 C.F.R. § 1180 6(a)(6)*

The lines operated by RJCC under current trackage rights that will be amended are shown on the map attached as Exhibit A.

Agreement. *49 C.F.R. § 1180 6(a)(7)(ii)*

A copy of the amendment permitting movement of sand between Lexington and Berea is attached as Exhibit B. The parties have agreed orally to amend the trackage rights agreement covering the 10-miles between RJCC's Water Street Lead in Louisville and The Western Terminus of RJCC's line to Lexington. That amendment will be reduced to writing in the next few weeks, and a copy of the executed agreement will be filed within 10 days after it is executed.

Employee Protection. *49 C.F.R. § 1180 4(g)(1)(i)*

Standard labor protective conditions for trackage rights transactions are applicable. See *Norfolk & Western Ry Co.—Trackage Rights—BN*, 354 ICC605 (1978), as modified in *Mendocino Coast Ry., Inc —Lease and Operate*, 360 ICC 653 (1980).

Caption Summary. *49 C.F.R. §1180 4(g)(2)(i)*

A caption summary suitable for publication in the Federal Register is attached as Exhibit C.

Environmental Impact. *49 C F.R. §1180.4(g)(3)*

Under C.F.R. § 1105.6(c)(2), the proposed transaction is exempt from environmental reporting requirements. Because the proposed transaction will permit the addition of cars to the currently operated unit trains, it will not result in significant changes in carrier operations that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Historic Preservation. 49 C.F.R. § 1180.4(g)(3)

Under 49 C.F.R. § 1105.8(b)(3), the proposed transaction also is exempt from historic preservation reporting requirements. The proposed trackage rights will not change any current rail operations nor substantially change the level of maintenance of rail property. Further, Surface Transportation Board approval is required to discontinue or abandon any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

CONCLUSION

Amendment of existing trackage rights agreements to allow RJCC to move sand and cement cars over CSXT tracks between CSXT milepost T1.8 and CSXT milepost 12.49 at HK Tower, a distance of about 10.75 miles, and to allow RJCC to move sand cars over CSXT tracks between CSXT milepost VB 113.81 at Winchester, Kentucky and CSXT mile post KC131.0 at Berea Kentucky, a distance of approximately 35 miles, qualifies for exemption from the requirements of 49 U.S.C § 11343 under 49 C.F.R. § 1180.2(d)(7).

Respectfully submitted,

By: 

Ronald A. Lane
Michael J. Barron, Jr.
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

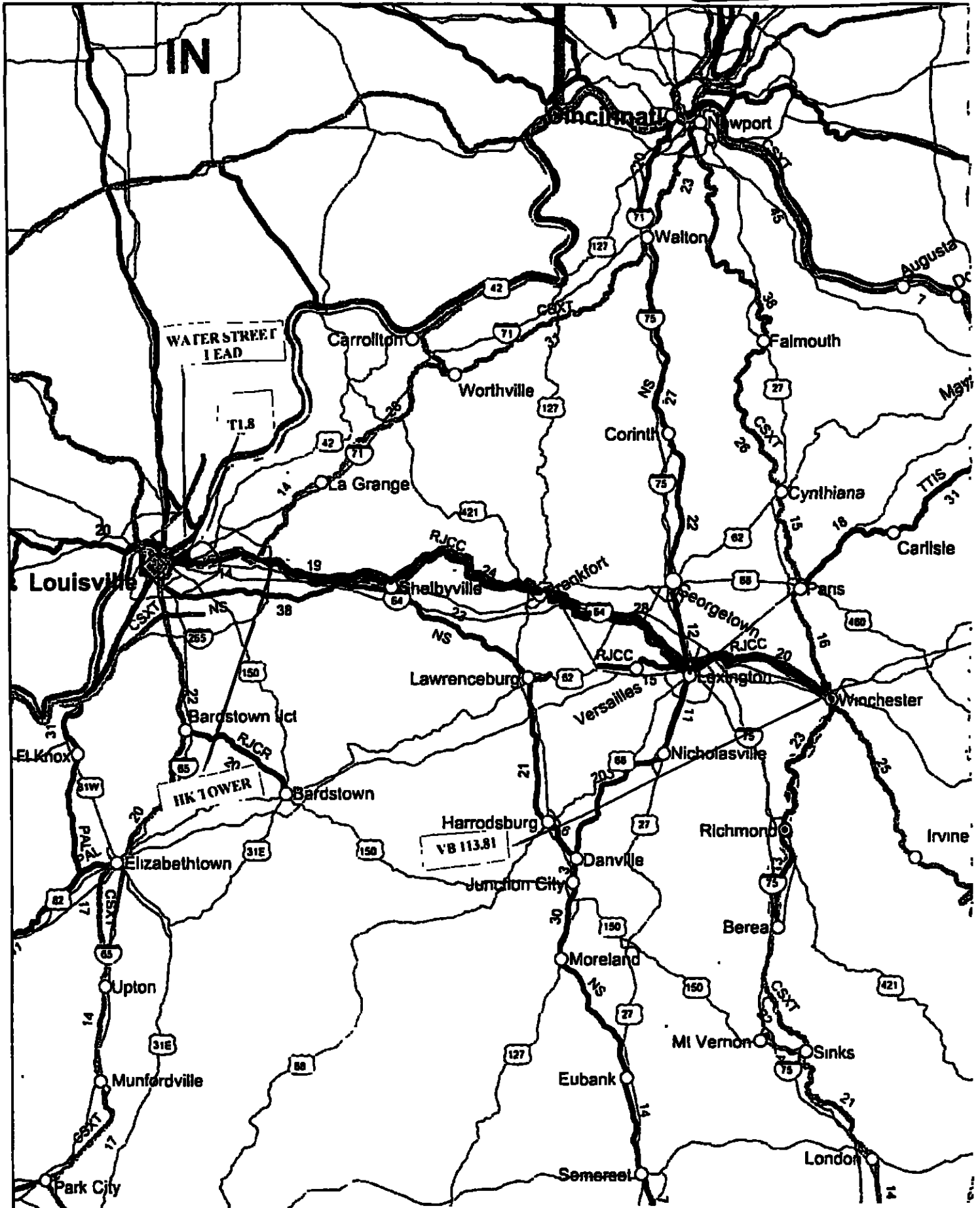
Attorneys for R.J. Corman Railroad Company/
Central Kentucky Lines, LLC

Dated: March 24, 2008

RJCC

EXHIBIT

A



SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT made this 15th day of January, 2008 ("Supplemental Agreement"), between **CSX TRANSPORTATION, INC.** (hereinafter referred to as "Owner") and **R. J. CORMAN RAILROAD – CENTRAL KENTUCKY LINES, LLC**, a Kentucky limited liability company, (hereinafter referred to as "User");

WITNESSETH:

WHEREAS, under the terms and provisions of an Addendum to a Master Trackage Rights Agreement ("Addendum") dated October 15, 2003, User enjoys trackage rights between the point of User's connection with Owner at Owner's milepost VB 113.81 at Winchester, KY, and the connection of Owner's trackage with that of Alcan at Owner's milepost KC 131.0 at Berea, KY ("Subject Trackage") to facilitate the movement of unit trains of aluminum ingots ("Ingots Trains") to and from Alcan Aluminum Corporation ("Alcan") at Berea, KY; and

WHEREAS, User desires to move sand in individual shipments ("Sand Cars"), originating on User at Louisville, KY and terminating at Berea, KY on the same industrial track that serves Alcan; and

WHEREAS, User desires to transport the Sand Cars between Louisville, KY and User's location at Lexington, KY, at which point User will append the loaded Sand Cars to the eastbound empty Ingots Trains and disconnect the empty Sand Cars from the westbound loaded Ingots Trains; and

WHEREAS, User leases property at Berea, KY from Owner, pursuant to an agreement dated August 8, 2003 ("Land Lease"), in order to provide service to Alcan from industrial tracks located thereon; and

WHEREAS, Owner and User have agreed to amend the Land Lease to include additional adjacent property in order to provide for User's delivery and pick up of Sand Cars; and

WHEREAS, Owner is agreeable to granting rights to User for the movement of Sand Cars in Ingots Trains, subject to the following terms and conditions; and

WHEREAS, Owner and User desire to formalize these understandings by supplementing the Trackage Rights Addendum through this Supplemental Agreement.

NOW THEREFORE, in consideration of the mutual covenants and benefits herein set forth, the parties agree to supplement the Addendum as follows:

Article 1 ADJUSTMENT TO TRackage RIGHTS

- 1.1 The Subject Trackage is shown on the plan attached hereto and marked as Exhibit "I".
- 1.2 Section 2 of the Addendum shall be amended to include Sand Cars (Standard Transportation Commodity Code 14413) originating on User at Louisville, KY, appended to Ingots Trains at Lexington, KY, and terminating at Berea, KY. User will utilize the reverse move for the transportation of empty Sand Cars.
- 1.3 While on the Subject Trackage, Sand Cars will move in Ingots Trains only. Under no circumstances will User move Sand Cars in a separate train.

Article 2 COMPENSATION

- 2.1 For the movement of Sand Cars over the Subject Trackage, User shall pay to Owner annually in advance, the sum of forty-two thousand (\$42,000) dollars, hereinafter referred to as the "Current Charge", said Current Charge reflecting the movement of approximately two thousand four hundred loaded or empty Sand Cars a distance of approximately 35 miles, at a per car mile charge of fifty cents (\$ 0.50), hereinafter referred to as the "Per Mile Charge". On July 1, 2008, User shall pay the Current Charge as defined in herein.
- 2.2 Upon execution of this Supplement, User shall pay an initial Current Charge of twenty-one thousand (\$21,000) dollars, to compensate for the movement of Sand Cars from January 1, 2008 through June 30, 2008.
- 2.3 At the end of each month, User shall furnish to Owner, in care of Director-Joint Facility Budgets & Administration, CSX Transportation, 500 Water Street, J180, Jacksonville, FL 32202, or via email to jointfacilities@csx.com, a statement of the number loaded and empty Sand Cars operated over the Subject Trackage during the month. Based on this statement, beginning on July 1, 2009 and on July 1 of each year thereafter, Owner shall restate the Current Charge for the succeeding one year term, to reflect the annual of cars moved by User in the year immediately preceding.
- 2.4 The Current Charge and the Per Mile Charge shall be subsequently further revised each year in accordance with Article 3.
- 2.5 User shall furnish Owner information concerning all loaded and empty cars in Electronic Data Interchange (EDI) transmission between the carriers. This procedure shall be required at the time the Association of American Railroads (AAR) defines the standard reporting procedures for trackage rights carriers. The carriers shall determine the minimal data requirements.

- 2.6 In no event, shall the Current Charge be less than five thousand (\$ 5,000) dollars annually, said amount to be known as the "Minimum Charge", and to also be revised each year in accordance with Article 3 of this Supplemental Agreement.

Article 3 REVISION OF CURRENT CHARGE

- 3.1 The Current Charge, the Minimum Charge, and the Per Mile Charge shall be subject to change to reflect any increases or decreases in labor, material and other costs as hereinafter provided.
- 3.2 The Current Charge, the Minimum Charge, and the Per Mile Charge shall be revised upward or downward each year, beginning with the bill rendered for the month of July 2009 to compensate for the increase or decrease in the cost of labor and material, excluding fuel, as reflected in the Annual Indexes of Charge-Out Prices and Wage Rates (1977=100), included in "AAR Railroad Cost Indexes" and supplements thereto, issued by the Association of American Railroads (hereinafter referred to as "AAR"). In making such determination, the final "Material prices, wage rates and supplements combined (excluding fuel)" indexes for the East District shall be used. The Current Charge, the Minimum Charge, and the Per Mile Charge shall be revised by calculating the percent of increase or decrease in the index of the latest calendar year (2007 Index for the first annual adjustment) as related to the index for the previous calendar year (2008 Index for the first annual adjustment) and applying that percent to the Current Charge, the Minimum Charge, and the Per Mile Charge.
- 3.3 By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for 2007; "B" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for 2008; "C" to be the Current Charge, the Minimum Charge, or the Per Mile Charge; and "D" to be the percent of increase or decrease; the revised Current Charge, the Minimum Charge, or the Per Mile Charge stated herein would be revised by the following formula:

$$(1) \frac{B - A}{A} = D \text{ (rounded to the third decimal place)}$$

$$(2) (D \times C) + C = \text{revised Current Charge, Minimum Charge, or Per Mile Charge (each rounded to the third decimal place), effective July 1 of the year being revised.}$$

- 3.4 In the event the base for the Annual Indexes of Charge-Out Prices and Wage Rates issued by the AAR shall be changed from the year 1977, appropriate revision shall be made. If the AAR or any successor organization discontinues publication of the Annual Indexes of Charge-Out Prices and Wage Rates, an appropriate substitute for determining the percentage of increase or decrease shall be negotiated by the parties hereto. In the absence of agreement, the parties shall submit the matter to binding arbitration as provided hereinafter.
- 3.5 At the option of either party hereto, the compensation provided for in this Agreement shall be open for renegotiation every five (5) years from the Commencement Date, as hereinafter defined. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement, and the parties shall continue to be bound by the terms of compensation provided in this Agreement until the matter is settled or submitted to binding arbitration.

Article 4 PAYMENT OF BILLS

- 4.1 All payments called for under this Agreement shall be made by User within thirty (30) days after receipt of bills therefor. No payments shall be withheld because of any dispute as to the correctness of items in the bills rendered, and any discrepancies reconciled between the parties hereto shall be adjusted in the accounts of a subsequent month. The records of each party hereto, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other party for a period of three (3) years from the date of billing.

Article 5 OTHER PROVISIONS

- 5.1 All other provisions in the Master Trackage Rights Agreement and Trackage Rights Addendum will remain in full force and effect, and shall apply to Sand Cars.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be executed in duplicate, each part being an original, as of the day and year first above written.

WITNESS:

CSX TRANSPORTATION, INC.

Joanna Griffith
Name: Joanna Griffith
Title: Director - Joint Facilities

By: Cressie Brown
Name: Cressie Brown
Title: Director - Passenger & JF Contracts

WITNESS:

R. J. CORMAN RAILROAD -
CENTRAL KENTUCKY LINES, LLC

Deborah J. Hawley
Name: Deborah J. Hawley
Title: Contracts & RE Specialist

By: Shirley W. Parker
Name: Shirley W. Parker
Title: President

EXHIBIT C

SURFACE TRANSPORTATION BOARD

Notice of Exemption

Finance Docket No. 35124

**R.J. CORMAN RAILROAD COMPANY/CENTRAL KENTUCKY LINES, LLC
-- TRACKAGE RIGHTS --CSX TRANSPORTATION, INC.**

CSX Transportation, Inc. ("CSXT") has agreed to grant additional limited overhead trackage rights to R.J. Corman Railroad Company/ Central Kentucky Lines LLC to move sand between CSXT milepost VB 113.81 near Winchester, KY and CSXT milepost KC131.0 near Berea, KY, as well as additional limited overhead trackage rights to move sand and cement between the Water Street Lead at CSXT milepost T1.8 in Louisville and CSXT milepost 12.49 at HK Tower near Anchorage, KY. The trackage rights will be effective thirty days after filing this notice

This notice is filed under 49 C.F.R. §1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. §10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:

By the Board.

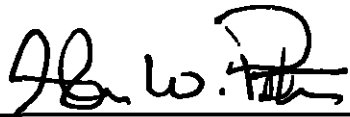
Anne K. Quinlan

Acting Secretary.

VERIFICATION

State of Kentucky)
)
County of Jessamine) ss:

Sherman w. Petree, being duly sworn, deposes and says that he is President of R.J. Corman Railroad Company/Central Kentucky Lines, LLC and that he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.



Sherman W (Pete) Petree

SUBSCRIBED AND SWORN TO
before me this 17 day of March, 2008.



Notary Public

My Commission expires:

MY COMMISSION EXPIRES
MARCH 22, 2009